



National Aeronautics and
Space Administration
Washington, DC 20546

Procurement Notice

PN 04-33
April 25, 2008

UPDATE TO NASA FAR SUPPLEMENT (NFS) SMALL BUSINESS POLICIES

BACKGROUND: This Procurement Notice (PN) revises the NASA FAR Supplement (NFS) to reflect the following updates to Small Business (SB) policy:

1. NFS 1804.601(d)(1) is being added to the NFS to clarify that only actions awarded to SBA certified HUBZone small businesses are to be counted towards HUBZone goal achievement when reporting information in the Federal Procurement Data System (FPDS). This requirement replaces and streamlines guidance previously provided through Procurement Information Circular (PIC) 02-13.

2. NFS 1815.304(c)(4)(B) is being revised to provide that the proposed Small Disadvantaged Business (SDB) subcontracting goal shall not be discretely evaluated, but should be included in the evaluation of the cumulative goal for all the small business categories identified in the plan when proposed small business goals are evaluated under competitive negotiated acquisitions. Further, NFS 1815.304(c)(4)(C) is being modified to provide that solicitations should not contain suggested targets for the expected participation when evaluating the participation of SDBs in designated NAICS Industry Subsectors as determined by the Department of Commerce. Proposed SDB participation levels shall be evaluated based on a standard of reasonableness relative to the offeror's proposed effort. These requirements replace guidance previously provided through PIC 99-11.

3. NFS 1819.201(e)(i) is being revised to clarify that small business specialists, whether full-time or part-time, report directly to the Procurement Officer when performing the duties of a small business specialist.

4. NFS 1819.800(f) is being added to the NFS to reference the Memorandum of Understanding between the Small Business Administration and NASA to allow direct Contracting with 8(a) firms by NASA. Specific guidance on the implementation of the MOU is found in PIC 99-21, which also will be referenced at NFS 1819.800.

5. NFS 1819.812(d) is being added to the NFS to require Contracting Officers to coordinate planned requests for waiver of an 8(a) contract termination with the Headquarters Office of Procurement (Program Operations Division) prior to submitting a notification of a request for waiver to the Small Business Administration. This requirement replaces the guidance previously provided through PIC 98-1.

ACQUISITIONS AFFECTED BY CHANGES: Solicitations issued or new contract actions initiated after the issuance date of this PN.

ACTION REQUIRED BY CONTRACTING OFFICERS: Ensure compliance with various updated Small Business policies set forth in this PN.

PROVISION AND CLAUSE CHANGES: None.

PARTS AFFECTED: Parts 1804, 1815, and 1819.

REPLACEMENT PAGES: You may use the enclosed pages to replace 4:5, 4:6, 4:7, 4:8, 15:7, 15:8, 15:8.1, and Part 1819 of the NFS.

TYPE OF RULE AND PUBLICATION DATE: These changes do not have a significant effect beyond the internal operating procedures of NASA and do not have a significant cost or administrative impact on contractors or offerors, and therefore do not require codification in the Code of Federal Regulations or publication for public comment.

HEADQUARTERS CONTACT: Diane Thompson, Office of Procurement, Contract Management Division, (202) 358-0514, email: Diane.Thompson@nasa.gov.

//s//

William P. McNally
Assistant Administrator for Procurement

Enclosures

DISTRIBUTION LIST:
PN List

4:

Subpart 1804.5--Electronic Commerce in Contracting**1804.570 NASA Acquisition Internet Service (NAIS).****1804.570-1 General.**

The NASA Acquisition Internet Service (NAIS) provides an electronic means for posting procurement synopses, solicitations, and associated information on the NAIS Internet site which in turn, automatically posts relevant information onto the Governmentwide point of entry (GPE).

1804.570-2 Electronic Posting System.

- (a) The NAIS Electronic Posting System (EPS) enables the NASA procurement staff to --
 - (1) Electronically create and post synopses on the NAIS Internet site and the GPE; and
 - (2) Post solicitation documents, including solicitation amendments or cancellations, and other procurement information on the NAIS Internet site with linked references on the GPE.
- (b) The EPS maintains an on-line index linking the posted synopses and solicitations for viewing and downloading.
- (c) The EPS shall be used to --
 - (1) Create and post all synopses in accordance with FAR Part 5 and NFS 1805; and
 - (2) Post all competitive solicitation files, excluding large construction and other drawings, for acquisitions exceeding \$25,000.
- (d) The NAIS is the official site for solicitation postings which in turn, automatically posts relevant information onto the Government-wide point of entry (GPE). In the event supporting materials, such as program libraries, cannot be reasonably accommodated by the NAIS, Internet sites external to NAIS may be established after coordination with the contracting officer. Such sites must be linked from the NAIS business opportunities index where the solicitation resides. External sites should not duplicate any of the files residing on the NAIS.

Subpart 1804.6--Contract Reporting**1804.601 Record requirements.**

The Headquarters Office of Procurement, Analysis Division, is responsible for meeting the requirements of FAR 4.601, based on installation validation and approval of data entered into the Federal Procurement Data System.

- (d)(1) Centers shall ensure that only actions awarded to SBA certified HUBZone small businesses are counted towards HUBZone goal achievement when reporting information in the Federal Procurement Data System (FPDS). Such businesses must be determined by SBA as eligible to receive HUBZone contracts prior to the time of proposal submission.

1804.604 Responsibilities.

- (c) Centers must perform a statistically-valid verification and validation of FPDS-NG data twice per year on a minimum of 25 percent of center actions. The procurement officer must certify data accuracy and completeness. Specific process requirements are as follows:

- (i) A cross-section of contract actions (delivery orders, purchase orders, funding actions, new contract awards, grants, cooperative agreements, etc.) shall be reviewed to provide visibility into the various types of actions that the center executes. The Office of Federal Procurement

6PROCUREMENT NOTICE (PN) 04-33 REPLACEMENT PAGE

4:

Policy (OFPP) requires a statistically-valid data verification and validation process, and each center is responsible for developing a statistically-valid method of contract action selection. If the center reviews greater than 25 percent of its actions per center guidance, the reviews should continue at the level required by the center.

(ii) Validation and verification must be conducted by an organization or person that did not award the contracts being reviewed. The reviews may be performed by contractor personnel as long as the individual was not involved in the award of the contract action under review and the review function is within the scope of the contract with NASA.

(iii) The review shall include the following fields in FPDS-NG:

(A) Extent Competed – was competition recorded correctly?

(B) Type of Set-Aside – was the correct type of set-aside chosen?

(C) Contracting Officer's Business Size Selection – was the correct business size selected?

(D) Type of Small Business Award (SWOB, SVOB, HUBZONE, etc.).

(E) Dollar Amount of the Action.

(F) Place of Manufacture.

(G) Advisory and Assistance Services – was the field checked if the contract action was for advisory and assistance services?

(H) Description of Requirement – is there a meaningful description provided? A meaningful description is one that includes something other than the effort title and/or the type of effort (e.g., "Phase II SBIR" or "Space Shuttle Engine Modification").

(I) Performance-Based Acquisition – was the field checked if the contract action was performance-based? (This field must be checked in the basic and in each modification).

(J) Procurement Placement Code (PPC) – was the correct PPC used?

(K) Vendor Data in the Central Contractor Registration (CCR) – does data displayed in FPDS-NG match data in CCR?

(L) Product/Service Code – when multiple codes apply, does the code selected adequately describe the preponderance of work being performed under the contract?

(iv) Errors or discrepancies identified during the review must be documented and corrected in FPDS-NG and PRISM/CMM. Current year awards must be reviewed, but if an error is identified that has been carried forward from the basic award, the basic award must be corrected.

(v) Errors identified in CCR data and the basic contract award information input by another agency (when placing orders) cannot be corrected by NASA, but must still be reported.

(vi) The procurement officer shall submit the review results and the certification to the Office of Procurement Analysis Division on or before the 30th of May and November of each year. The May review covers the period from October 1 through March 31, and the November review covers the period from April 1 through September 30. The reviews may be included as a part of center self-assessment activities or as stand alone activities. Centers may elect to conduct reviews on a more frequent basis (e.g., quarterly or monthly) and include this data in the report accompanying the twice-yearly certifications.

(vii) The procurement officer must sign the certification letter. The letter must state that the verification and validation review has been accomplished and must certify data accuracy and completeness. The certification letter must be accompanied by an Excel spreadsheet which identifies the contract actions reviewed, the findings for each field identified in 1804.604(c)(iii),

4:

the changes (if any) required, and the date that the changes were accomplished in FPDS-NG and/or CMM/PRISM.

(viii) Each center must identify a primary focal point and one alternate for FPDS-NG data verification and validation responsibility. The focal point is responsible for establishing and coordinating the center's review process and ensuring that reviews comply with the requirements of this section and the OFPP mandate for independent review of contract actions. The focal point must also ensure that certifications (with required Excel spreadsheet data) are provided to the Office of Procurement Analysis Division by the established due dates. Focal point and/or alternate changes must be promptly provided to the Analysis Division.

(ix) Each center shall develop and maintain an FPDS-NG Data Validation and Verification Implementation Plan. The implementation plan must describe the method to be used in arriving at a statistically-valid sample representing a cross-section of center contract actions, the percentage of actions to be reviewed by the center twice yearly, the Excel spreadsheet template to be provided with the certification, the frequency of planned reviews, and the center plan for ensuring that the reviews are conducted by an organization or person that did not award the contracts being reviewed. The procurement officer must provide a copy the center's implementation plan, and any changes or updates, to the Office of Procurement Analysis Division.

Subpart 1804.8--Government Contract Files

1804.802-70 Handling of classified material.

When a contract is unclassified, classified material relating to that contract shall be maintained in a separate file folder and container, and the unclassified folder shall be marked to indicate the location of the classified material. The front and back of each folder containing classified material shall be marked with the highest classification assigned to any document in the folder.

1804.803 Contents of contract files.

1804.803-70 Checklist.

NASA Form 1098, Checklist for Contract Award File Content, shall be used as the "top page" in contract files.

1804.804 Closeout of contract files.

1804.804-2 Closeout of the contracting office files if another office administers the contract.

(b) Upon receiving the NASA Form 1611 or DD Form 1594, Contract Completion Statement, from the contract administration office and complying with FAR 4.804-2(b), the contracting officer shall complete the form.

1804.804-5 Procedures for closing out contract files.

(a) When the contracting office retains contract administration (excluding acquisitions under the simplified acquisition threshold), the contracting officer must comply with FAR 4.804-5(a)

8PROCUREMENT NOTICE (PN) 04-33 REPLACEMENT PAGE

4:

by completing NASA Form 1612, Contract Closeout Checklist, and DD Form 1593, Contract Administration Completion Record.

(b) To comply with FAR 4.804-5(b), the contracting officer must complete NASA Form 1611 or DD Form 1594, Contract Completion Statement, except for acquisitions under the simplified acquisition threshold.

1804.805 Storage, handling, and disposal of contract files.

(a) See NPR 1441.1, NASA Records Retention Schedules.

1804.805-70 Review, separation, and retirement of contract files.

(a) Upon determination of contract completion under the procedures outlined in 1804.804, each office shall remove the official contract files from the active file series, mark each file folder with "Completed (Date)", and place the folder in a completed (inactive) contract file series. Separate series should be established for contracts of \$25,000 or less and for contracts of more than \$25,000, to facilitate later disposal. Any original or official file copies of documents contained in duplicate or "working" contract files shall be removed and placed in the appropriate official file; any remaining material in the duplicate or "working" file shall be destroyed immediately or segregated and marked for early disposal.

(b) Each office shall review contractor "general" files (i.e., a file containing documents relating generally to a contractor rather than a specific contract) at least once annually and remove documents that --

(1) Are obsolete or superseded documents relating generally to the contractor (e.g., documents no longer pertinent to any aspect of a contractor's current or future capability, performance, or programs, and documents relating to a contractor that is no longer a possible source of supplies, services, or technical assistance) and dispose of the documents as authorized in 1804.805; or

(2) Pertain only to completed contracts. Place those files that are not routine in nature in inactive files for later disposal, and immediately dispose of routine documents as authorized in NPR 1441.1, NASA Records Retention Schedules.

Subpart 1804.9--Taxpayer Identification Number Information

1804.904 Reporting payment information to the IRS.

Each NASA installation, that has its own employer identification number, may elect to report to the IRS payments under purchase orders and contracts for merchandise and other exempt bills.

Subpart 1804.70--Transfer of Contracting Office Responsibility

1804.7000 Scope of subpart.

This subpart contains policies and procedures applicable to the transfer of contracts between NASA installations.

1804.7001 Definition.

1815.300-70 Applicability of subpart.

(a)(1) Except as indicated in paragraph (b) of this section, NASA competitive negotiated acquisitions shall be conducted as follows:

(i) Acquisitions of \$50 million or more -- in accordance with FAR 15.3 and this subpart.

(ii) Other acquisitions -- in accordance with FAR 15.3 and this subpart except section 1815.370 and use of a mission suitability factor and numerical scoring is optional.

(2) Estimated dollar values of acquisitions shall include the values of multiple awards, options, and later phases of the same project.

(b) FAR 15.3 and this subpart are not applicable to acquisitions conducted under the following procedures:

(1) Announcements of Opportunity (see Part 1872).

(2) NASA Research Announcements (see 1835.016-71).

(3) The Small Business Innovative Research (SBIR) program and the Small Business Technology Transfer (STTR) pilot program under the authority of the Small Business Act (15 U.S.C. 638).

(4) Architect and Engineering (A&E) services (see FAR 36.6 and 1836.6).

1815.303 Responsibilities.

(a) The SSA shall be established at the lowest reasonable level for each acquisition. Notwithstanding the FAR designation of the contracting officer as SSA, the SSA for center acquisitions shall be established in accordance with center procedures. For acquisitions designated as Headquarters selections, the SSA will be identified as part of the Master Buy Plan process (see 1807.71).

(b)(i) The source selection authority (SSA) is the Agency official responsible for proper and efficient conduct of the source selection process and for making the final source selection decision. The SSA has the following responsibilities in addition to those listed in the FAR:

(A) Approve the source selection approach, rating method, evaluation factors, subfactors, the weight of the evaluation factors and subfactors when used, and any special standards of responsibility (see FAR 9.104-2) before release of the RFP, or delegate this authority to appropriate management personnel;

(B) Appoint the source selection team. However, when the Administrator will serve as the SSA, the Official-in-Charge of the cognizant Headquarters Program Office will appoint the team; and

(C) Provide the source selection team with appropriate guidance and special instructions to conduct the evaluation and selection procedures.

(b)(ii) See 1803.104-70 for restrictions on participating in evaluation or selection of proposals.

(b)(2) Approval authorities for Acquisition Plans and Procurement Strategy Meetings are in accordance with 1807.103.

1815.304 Evaluation factors and significant subfactors.

(c)(4)(A) Small Business Utilization shall be evaluated as a subfactor under the Mission Suitability factor. The Small Business Utilization subfactor shall provide for a separate and distinct evaluation of Small Business plans and SDB participation. If a Mission Suitability factor

is not used, Small Business Utilization, including a separate and distinct evaluation of SDB concerns, shall be evaluated as a separate factor or subfactor, as appropriate.

(B) NASA estimated goals should be specified for each small business category in solicitations that require the submission of a subcontracting plan under 52.219-9. When estimated goals are evaluated in competitive negotiated acquisitions, the suggested SDB subcontracting goal shall not be discretely evaluated, but should be included in the evaluation of the cumulative goal for all the small business categories identified in the plan.

(C) In solicitations that include the FAR 19.12 evaluation of participation of SDBs in the designated North American Industry Classification System (NAICS) codes, NASA estimated targets should not be specified for the expected participation. Proposed SDB participation levels shall be evaluated based on a standard of reasonableness relative to the offeror's proposed effort. SDB concerns that choose the FAR 19.11 price evaluation adjustment shall receive the lowest possible score/rating under the FAR 15.304(c)(4) evaluation.

1815.304-70 NASA evaluation factors.

(a) Typically, NASA establishes three evaluation factors: Mission Suitability, Cost/Price, and Past Performance. Evaluation factors may be further defined by subfactors. Evaluation subfactors should be structured to identify significant discriminators, or "key swingers" - the essential information required to support a source selection decision. Too many subfactors undermine effective proposal evaluation. All evaluation subfactors should be clearly defined to avoid overlap and redundancy.

(b) Mission Suitability factor.

(1) This factor indicates the merit or excellence of the work to be performed or product to be delivered. It includes, as appropriate, both technical and management subfactors. Mission Suitability shall be numerically weighted and scored on a 1000-point scale. (See 1815.300-70(a)(1)(ii).)

(2) The Mission Suitability factor may identify evaluation subfactors to further define the content of the factor. Each Mission Suitability subfactor shall be weighted and scored. The adjectival rating percentages in 1815.305(a)(3)(A) shall be applied to the subfactor weight to determine the point score. The number of Mission Suitability subfactors is limited to five. The Mission Suitability evaluation subfactors and their weights shall be identified in the RFP.

(3) For cost reimbursement acquisitions, the Mission Suitability evaluation shall also include the results of any cost realism analysis. The RFP shall notify offerors that the realism of proposed costs may significantly affect their Mission Suitability scores.

(4) If the solicitation requires the submission of a Safety and Health Plan (see 1823.7001(c) and NPR 8715.3, NASA Safety Manual, Appendix H), safety and health must be a consideration in the evaluation. The Mission Suitability factor, if used, shall include a subfactor for safety and health.

(c) Cost/Price factor. This factor evaluates the reasonableness and, if necessary, the cost realism, of proposed costs/prices. The Cost/Price factor is not numerically weighted or scored.

(d) Past Performance factor.

PROCUREMENT NOTICE (PN) 04-33 REPLACEMENT PAGE
15:2

(1) This factor indicates the relevant quantitative and qualitative aspects of each offeror's record of performing services or delivering products similar in size, content, and complexity to the requirements of the instant acquisition.

(2) The RFP shall instruct offerors to submit data (including data from relevant Federal, State, and local governments and private contracts) that can be used to evaluate their past performance. Typically, the RFP will require:

(i) A list of contracts similar in size, content, and complexity to the instant acquisition, showing each contract number, the type of contract, a brief description of the work, and a point of contact from the organization placing the contract. Normally, the requested contracts are limited to those received in the last three years. However, in acquisitions that require longer periods to demonstrate performance quality, such as hardware development, the time period should be tailored accordingly.

(ii) The identification and explanation of any cost overruns or underruns, completion delays, performance problems, and terminations.

(3) The contracting officer may start collecting past performance data before proposal receipt. One method for early evaluation of past performance is to request offerors to submit their past performance information in advance of the proposal due date. The RFP could also include a past performance questionnaire for offerors to send their previous customers with instructions to return the completed questionnaire to the Government. Failure of the offeror to

PART 1819
SMALL BUSINESS PROGRAMS

TABLE OF CONTENTS

| | |
|------------------------|--|
| 1819.001 | Definitions. |
| SUBPART 1819.2 | POLICIES |
| 1819.201 | General policy. |
| SUBPART 1819.3 | DETERMINATION OF SMALL BUSINESS STATUS FOR SMALL BUSINESS PROGRAMS |
| 1819.302 | Protesting a small business representation. |
| SUBPART 1819.5 | SET-ASIDES FOR SMALL BUSINESS |
| 1819.502 | Setting aside acquisitions. |
| 1819.502-70 | Non-initiation of set-asides. |
| 1819.502-3 | Partial set-asides. |
| 1819.502-370 | NASA reporting requirements. |
| 1819.505 | Rejecting Small Business Administration recommendations. |
| SUBPART 1819.6 | CERTIFICATES OF COMPETENCY AND DETERMINATIONS OF RESPONSIBILITY |
| 1819.602 | Procedures. |
| 1819.602-1 | Referral. |
| 1819.602-3 | Resolving differences between the agency and the Small Business Administration. |
| 1819.602-370 | NASA procedures. |
| SUBPART 1819.7 | THE SMALL BUSINESS SUBCONTRACTING PROGRAM |
| 1819.705-2 | Determining the need for a subcontracting plan. |
| 1819.705-4 | Reviewing the subcontracting plan. |
| 1819.705-470 | Acquisition-specific subcontracting goals. |
| 1819.708 | Contract clauses. |
| 1819.708-70 | NASA solicitation provision and contract clause. |
| SUBPART 1819.8 | CONTRACTING WITH THE SMALL BUSINESS ADMINISTRATION (THE 8(a) PROGRAM) |
| 1819.800 | General |
| 1819.804 | Evaluation, offering, and acceptance. |
| 1819.804-1 | Agency evaluation. |
| 1819.812 | Contract Administration |
| SUBPART 1819.10 | SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM |
| 1819.1005 | Applicability. |
| SUBPART 1819.70 | NASA 8 PERCENT GOAL |
| 1819.7000 | General. |
| 1819.7002 | Contracting officer responsibility. |

| | | |
|----------------|----------------|---|
| 1819.7003 | | Contract clause. |
| SUBPART | 1819.71 | NASA RURAL AREA SMALL BUSINESS PLAN |
| 1819.7101 | | Definition. |
| 1819.7102 | | General. |
| 1819.7103 | | Solicitation provision and contract clause. |
| SUBPART | 1819.72 | NASA MENTOR-PROTÉGÉ PROGRAM |
| 1819.7201 | | Scope of subpart. |
| 1819.7202 | | Definitions. |
| 1819.7203 | | Non-affiliation. |
| 1819.7204 | | Transportability of features from the Department of Defense (DOD) Mentor-Protégé program to NASA contractors. |
| 1819.7205 | | General policy. |
| 1819.7206 | | Incentives for prime contractor participation. |
| 1819.7207 | | Measurement of Program success. |
| 1819.7208 | | Mentor firms. |
| 1819.7209 | | Protégé firms. |
| 1819.7210 | | Selection of protégé firms. |
| 1819.7211 | | Application process for mentor firms to participate in the Program. |
| 1819.7212 | | OSDBU review and approval process of agreement. |
| 1819.7213 | | Agreement contents. |
| 1819.7214 | | Developmental assistance. |
| 1819.7215 | | Obligation. |
| 1819.7216 | | Internal controls. |
| 1819.7217 | | Reports. |
| 1819.7218 | | Program review. |
| 1819.7219 | | Solicitation provision and contract clauses. |
| SUBPART | 1819.73 | SMALL BUSINESS INNOVATION RESEARCH (SBIR) AND SMALL BUSINESS TECHNOLOGY TRANSFER (STTR) PROGRAMS |
| 1819.7301 | | Scope of subpart. |
| 1819.7302 | | NASA contract clauses. |

PART 1819

SMALL BUSINESS PROGRAMS

1819.001 Definitions.

“**High-Tech**” as used in this part means research and/or development efforts that are within or advance the state-of-the-art in a technology discipline and are performed primarily by professional engineers, scientists, and highly skilled and trained technicians or specialists.

Subpart 1819.2--Policies

1819.201 General policy.

(a)(i) NASA is committed to providing to small, veteran-owned small business, service-disabled veteran-owned small business, HUBZone, small disadvantaged, and women-owned small business concerns, maximum practicable opportunities to participate in Agency

acquisitions at the prime contract level. The participation of NASA prime contractors in providing subcontracting opportunities to such entities is also an essential part of the Agency's commitment. The participation of these entities is particularly emphasized in high-technology areas where they have not traditionally dominated.

(ii) NASA annually negotiates Agency small, service-disabled veteran-owned small business, HUBZone, small disadvantaged, and women-owned small business prime and subcontracting goals with the Small Business Administration pursuant to section 15(g) of the Small Business Act (15 U.S.C. 644). In addition, NASA has the following statutory goals based on the total value of prime and subcontract awards:

(A) Under Public Laws 101-144, 101-507, and 102-389, an annual goal of at least 8 percent for prime and subcontract awards to small disadvantaged business (SDB) concerns, Historically Black Colleges and Universities (HBCUs), minority institutions (MIs), and women-owned small businesses (WOSBs) (see 1819.7000); and

(B) Under 10 U.S.C. 2323, an annual goal of 5 percent for prime and subcontract awards to SDBs, HBCUs, and WOSBs.

(d) The Assistant Administrator for Small and Disadvantaged Business Utilization is the Agency official responsible for carrying out the duties in FAR 19.201(d).

(e)(i) The center director shall designate a qualified individual in the contracting office as a small business specialist to provide a central point of contact to which small business concerns may direct inquiries concerning small business matters and participation in NASA acquisitions. The small business specialist shall also perform other functions specifically set forth in this section 1819.201 or that the procurement officer may prescribe, with the concurrence of the Assistant Administrator for Small and Disadvantaged Business Utilization, for implementing the Small Business Program. When the center director considers that the volume of acquisitions or the functions relating to acquisitions at the center do not warrant a full-time small business specialist, these duties may be assigned to procurement personnel on a part-time basis. However, whether full-time or part-time, that assigned individual, when performing the duties of a small business specialist, shall report directly to the Procurement Officer.

(ii) Small business specialists appointed under paragraph (d)(i) of this section shall perform the following duties, as the procurement officer determines appropriate to the installation:

(A) Maintain a program designed to locate capable small business sources, including those located in labor surplus areas, for current and future acquisitions.

(B) Coordinate inquiries and requests for advice from small business concerns on acquisition matters.

(C) Before issuance of solicitations or contract modifications for additional supplies or services, determine that small business concerns will receive adequate consideration, including making recommendations for initiation of set-asides (see FAR 19.5 and 19.8) and for taking action in accordance with FAR 19.506(b) and 1819.502-70. Participate and provide input early in the acquisition planning phase of proposed acquisitions, including procurement strategy meetings.

(D) If small business concerns cannot be given an opportunity to compete because adequate specifications or drawings are not available, work with appropriate technical and contracting personnel to ensure that necessary specifications or drawings for current or future acquisitions will be available.

(E) Review acquisitions for possible breakout of items suitable for acquisition from small business concerns.

(F) Advise small business concerns regarding financial assistance available under laws and regulations, assist such concerns in applying for such assistance, and ensure that small business concerns' requests for financial assistance are not treated as a handicap in securing the award of contracts.

(G) Participate in responsibility determinations (see FAR 9.103) when small business concerns are involved.

(H) Participate in the evaluation of prime contractors' small business subcontracting programs (see FAR 19.705-4).

(I) Review and make appropriate recommendations to the contracting officer on any proposal to furnish Government-owned facilities to a contractor if such action may hurt the Small Business Program.

(J) Ensure that participation of small business concerns is accurately reported.

(K) Make available to SBA copies of solicitations when requested.

(L) Act as liaison between contracting officers and SBA area offices and representatives in connection with set-asides, certificates of competency, and any other matters in which the Small Business Program may be involved.

(M) In cooperation with contracting officers and technical personnel, seek and develop information on the technical competence of small business concerns for research and development contracts. Regularly bring to the attention of contracting officers and technical personnel descriptive data, brochures, and other information regarding small business concerns that are apparently competent to perform research and development work in fields in which NASA is interested.

(N) When a small business concern's offer has been rejected for nonresponsiveness or nonresponsibility, assist that concern, upon its request, in understanding such requirements for future awards.

(O) Advise center personnel, as necessary, on new Governmentwide and Agency-approved small business programs and initiatives.

(f) (1) The NASA Ombudsman, the Director of the Contract Management Division, is the designated official for determining whether the use of the SDB mechanism in FAR Subpart 19.11 has resulted in an undue burden on non-SDB firms in the Department of Commerce designated NAICS Major Groups, or is otherwise inappropriate.

Subpart 1819.3--Determination of Small Business Status for Small Business Programs

1819.302 Protesting a small business representation.

(d) (1) The contracting officer shall not make awards of small business set-aside acquisitions before the expiration of the period for receipt of a size standard protest.

Subpart 1819.5--Set-Asides for Small Business

1819.502 Setting aside acquisitions.

1819.502-70 Non-initiation of set-asides.

(a) All cases involving the non-initiation of a set-aside, whether resulting from a joint decision of the small business specialist and the contracting officer or a decision by the contracting officer alone, require referral to the SBA representative (if one is assigned and available) for review.

(b) If the small business specialist recommends that an individual acquisition or a class of acquisitions, or a portion thereof, be set aside, the contracting officer shall promptly either concur in or disapprove the recommendation, stating in writing the reasons for disapproval.

(c) When an SBA representative is assigned and available and the contracting officer disapproves the small business specialist's recommendation, the contracting officer shall promptly refer the case to the SBA representative for review. The small business specialist shall take no further appeal action. The SBA representative must either concur with the decision or appeal the case to the procurement officer under FAR 19.505. If the procurement officer approves the contracting officer's decision and the SBA appeals under FAR 19.505(c), the procurement officer

shall forward the required written justification, including a history of discussions between the center and the SBA and rationale for the decision, to the Headquarters Office of Procurement, Program Operations Division.

(d) The contracting officer shall prepare, sign, and retain in the contract file a memorandum of nonconcurrence in a recommended set-aside action.

1819.502-3 Partial set-asides.

1819.502-370 NASA Reporting Requirements.

The contracting officer shall separately report, in accordance with Subpart 1804.6, awards of the non-set-aside portions of small business set-aside acquisitions.

1819.505 Rejecting Small Business Administration recommendations.

See 1819.502-70.

Subpart 1819.6--Certificates of Competency and Determinations of Responsibility

1819.602 Procedures.

1819.602-1 Referral.

(a) On proposed awards exceeding the simplified acquisition threshold, the contracting officer should consider requesting a preaward survey (see FAR 9.106) before determining that a responsive small business firm is not responsible. The scope of the preaward survey request should be limited to those elements of responsibility that are questioned.

(2) The contracting officer shall forward a copy of the referral to SBA through the procurement officer to the Headquarters Office of Small and Disadvantaged Business Utilization (Code K).

1819.602-3 Resolving differences between the agency and the Small Business Administration.

1819.602-370 NASA Procedures.

(a) When agreement cannot be reached between the contracting officer and the SBA Area Office, the contracting officer shall forward to the Headquarters Office of Procurement (Code HS) on an expedited basis, a complete case file with a request that the case be considered for appeal to SBA Headquarters. The contracting officer shall include the data already furnished to SBA, SBA's rationale for proposing to issue a COC, and the contracting officer's comments. The contracting officer shall suspend acquisition action until informed by Code HS of the final decision in the case.

(b) If the Office of Procurement concludes that the referral to SBA should be withdrawn and a contract awarded without benefit of a COC, Code HS shall inform the contracting officer.

(c) If the Office of Procurement agrees with the contracting officer's recommended appeal action, the Assistant Administrator for Procurement shall forward the appeal through the Office of Small and Disadvantaged Business Utilization (Code K) to SBA Headquarters.

Subpart 1819.7--The Small Business Subcontracting Program

1819.705-2 Determining the need for a subcontracting plan.

(d) Solicitations for competitive negotiated acquisitions shall require proposed subcontracting plans with initial proposals (see 1819.708(b)(1)). For sole source negotiated acquisitions, the contractor shall be required to submit a proposed subcontracting plan with the proposal.

1819.705-4 Reviewing the subcontracting plan.

1819.705-470 Acquisition-specific subcontracting goals.

Section 1819.201 addresses Agencywide goals at the combined prime and subcontract levels. Appropriate subcontracting goals for an individual acquisition, however, are to be independently determined on the basis of the specific circumstances of the acquisition, consistent with FAR 19.705-4 and 1819.7002(b), and not on the basis of an Agencywide or center goal. Acquisition-specific subcontracting goals should reflect maximum practicable opportunities for all categories of small business concerns to participate in NASA programs, consistent with efficient performance. The methods outlined in NASA Policy Directive (NPD) 5000.2, Uniform Methodology for Determination of Small Disadvantaged Subcontracting Goals, may also be useful in establishing reasonable subcontracting goals for small, veteran-owned small business, service-disabled veteran-owned small business, HUBZone, and women-owned small business concerns.

1819.708 Contract clauses.

(b) (1) The contracting officer shall use the clause at FAR 52.219-9 with its Alternate II when contracting by negotiation.

1819.708-70 NASA solicitation provision and contract clause.

(a) The contracting officer shall insert the provision at 1852.219-73, Small Business Subcontracting Plan, in invitations for bids containing the clause at FAR 52.219-9 with its Alternate I. Insert in the last sentence the number of calendar days after request that the offeror must submit a complete plan.

(b) The contracting officer shall insert the clause at 1852.219-75, Small Business Subcontracting Reporting, in solicitations and contracts containing the clause at FAR 52.219-9, except for contracts covered by an approved commercial plan.

Subpart 1819.8--Contracting with the Small Business Administration (The 8(a) Program)

1819.800 General.

(f) NASA and the Small Business Administration maintain a Partnership Agreement (PA) to allow direct contracting with 8(a) firms by NASA. Specific guidance on the implementation of the PA through a class deviation to certain requirements set forth in Subpart 19.8 is set forth in Procurement Information (PIC) 08-06. Centers are to refer to the PIC to determine if direct contracting is currently authorized.

1819.804 Evaluation, offering, and acceptance.

1819.804-1 Agency evaluation.

The small business specialist shall review and evaluate all acquisition requirements to determine their suitability for offering to SBA for 8(a) acceptance and make a recommendation to the contracting officer concerning award to SBA.

1819.812 Contract Administration.

(d) The Small Business Act, at 15 USC 637(a)(21)(A), requires a contract awarded under the 8(a) Program to be performed by the concern that initially received the contract. If the owner(s) upon whom eligibility was based subsequently relinquishes ownership or control, or enters into any agreement to relinquish ownership or control, the contract shall be terminated for

convenience unless a request for waiver is submitted by the contractor, or by NASA. Only the Small Business Administration (SBA) may waive this requirement. Contracting Officers must coordinate any planned requests for waiver of an 8(a) contract termination with the Headquarters Office of Procurement (Program Operations Division). The Headquarters Office of Procurement will review and coordinate the package with Headquarters offices, as appropriate, and will either forward the request to the Administrator for signature or will advise the Contracting Officer of the decision not to submit the request to the SBA.

Subpart 1819.10--Small Business Competitiveness Demonstration Program

1819.1005 Applicability.

(b) The targeted industry categories for NASA and their North American Industry Classification System (NAICS) codes are:

| NAICS Code | Industry Category |
|-------------------|--|
| 334111 | Electronic Computer Manufacturing |
| 334418 | Printed Circuit Assembly (Electronic Assembly) Manufacturing |
| 334613 | Magnetic and Optical Recording Media Manufacturing |
| 334119 | Other Computer Peripheral Equipment Manufacturing |
| 33422 | Radio and Television Broadcasting and Wireless Communication Equipment Manufacturing |
| 336415 | Guided Missile and Space Vehicle Propulsion Unit and Propulsion Unit Parts Manufacturing |
| 336419 | Other Guided Missile and Space Vehicle Parts and Auxiliary Equipment Manufacturing |
| 334511 | Search, Detection, Navigation, Guidance, Aeronautical, and Nautical Systems and Instrument Manufacturing |
| 333314 | Optical Instrument and Lens Manufacturing |
| 541511 | Custom Computer Programming Services |
| 541512 | Computer Systems Design Services |
| 51421 | Data Processing Services |
| 541519 | Other Computer Related Services |

Subpart 1819.70--NASA 8 Percent Goal

1819.7000 General.

Public Laws 101-144, 101-507, and 102-389 require the NASA Administrator to ensure, to the fullest extent possible, that at least 8 percent of Federal funding for prime and subcontracts awarded in support of authorized programs, including the space station by the time operational status is obtained, be made available to small disadvantaged business concerns, Historically Black Colleges and Universities, minority institutions, and women-owned small business concerns.

1819.7002 Contracting officer responsibility.

(a) Contracting officers must seek out as potential sources small disadvantaged business concerns, women-owned small business concerns, historically black colleges or universities and minority institutions, and give full consideration to these entities to satisfy NASA requirements. The participation of NASA prime contractors is also essential to meeting the Agency's 8 percent goal.

(b) NASA Policy Directive (NPD) 5000.2, Uniform Methodology for Determination of Small Disadvantaged Subcontracting Goals, contains guidance on developing realistic goals. It is applicable to acquisitions expected to exceed \$50 million, including options. The methodology may be used for lesser value acquisitions.

1819.7003 Contract clause.

The contracting officer shall insert the clause at 1852.219-76, NASA 8 Percent Goal, in all solicitations and contracts other than those below the simplified acquisition threshold or when the contract, together with all its subcontracts, is to be performed entirely outside of any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Trust Territory of the Pacific Islands.

Subpart 1819.71--NASA Rural Area Small Business Plan

1819.7101 Definition.

"**Rural area**" means a county with a population of fewer than twenty thousand individuals.

1819.7102 General.

Pursuant to Public Law 100-590, NASA established a Rural Area Business Enterprise Development Plan, including methods for encouraging prime and subcontractors to use small business concerns located in rural areas as subcontractors and suppliers. One method is to encourage the contractor to use its best efforts to comply with the intent of the statute.

1819.7103 Solicitation provision and contract clause.

The contracting officer shall insert the clause at 1852.219-74, Use of Rural Area Small Businesses, in solicitations and contracts that offer subcontracting possibilities or that are expected to exceed \$550,000 (\$1,000,000 for construction of public facility) unless the contract, together with all its subcontracts, is to be performed entirely outside of any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Trust Territory of the Pacific Islands.

Subpart 1819.72--NASA Mentor-Protégé Program

1819.7201 Scope of subpart.

The NASA Mentor-Protégé Program is designed to incentivize NASA prime contractors to assist small disadvantaged business (SDB) concerns, Historically Black Colleges and Universities (HBCUs), minority institutions (MIs), and women-owned small business (WOSB) concerns, in enhancing their capabilities to perform NASA contracts and subcontracts, foster the establishment of long-term business relationships between these entities and NASA prime contractors, and increase the overall number of these entities that receive NASA contract and subcontract awards.

1819.7202 Definition.

"**High-Tech**" is defined in 1819.001.

1819.7203 Non-affiliation.

For purposes of the Small Business Act, a protégé firm may not be considered an affiliate of a mentor firm solely on the basis that the protégé firm is receiving developmental assistance referred to in 1819.7214 from such mentor firm under the Program. In addition, NASA shall not consider partial ownership, up to 10 percent, of a Department of Defense (DOD)-sanctioned protégé firm by its DOD mentor to constitute affiliation.

1819.7204 Transportability of features from the Department of Defense (DOD) Mentor-Protégé Program to NASA contractors.

(a) In accordance with the benefits authorized by the DOD Mentor-Protégé Program (Public Law 101-510, Section 831, as amended by Public Law 102-190, Section 814), a NASA contractor who is also an approved DOD mentor can transfer credit features to their NASA contracts.

(b) NASA prime contractors, who are approved DOD mentors, can award subcontracts noncompetitively under their NASA contracts to the protégés which they are assisting under the DOD Program (Public Law 101-510, Section 831(f)(2)).

(c) NASA prime contractors may count the costs of developmental assistance provided to protégés being assisted under the DOD Program toward meeting the goals in their subcontracting plans under their NASA prime contracts (Public Law 102-190, Section 814). Limitations which may reduce the value of this benefit include:

(1) Credit toward attaining subcontracting goals is available only to the extent that the developmental assistance costs have not been reimbursed to the contractor by DOD as direct or indirect costs; or

(2) The credit is available to meet the goals of a NASA subcontracting plan only to the extent that it has not been applied to a DOD subcontracting plan. The same unreimbursed developmental assistance costs cannot be counted toward meeting the subcontracting goals of more than one prime contract. These costs would accrue from credit for the multiples attributed to assistance provided by Small Business Development Centers, Historically Black Colleges and Universities and minority institutions.

(d) The features identified in paragraphs (a), (b) and (c) of this section point out the portability of features from the DOD Mentor-Protégé Program to NASA prime contractors. NASA mentors will be held to show "good faith" by providing actual developmental assistance beyond transferring credit from activity in the DOD Program to NASA subcontracting plans.

1819.7205 General policy.

(a) Eligible large business prime contractors, not included on the "List of Parties Excluded from Federal Procurement and Nonprocurement Programs", who have at least one active subcontracting plan, and who are approved as mentor firms may enter into agreements with eligible entities (as defined in 1819.7209) as protégés to provide appropriate developmental assistance to enhance the capabilities of protégés to perform as subcontractors and suppliers. Eligible small business prime contractors, not included on the "List of Parties Excluded from Federal Procurement and Nonprocurement Programs", and that are capable of providing developmental assistance to protégés, may also be approved as mentors. An active mentor-protégé arrangement requires the protégé to be a subcontractor under the mentor's prime contract with NASA.

(b) The Mentor-Protégé program may be used in cost reimbursement type contracts and contracts that include an award fee incentive. Costs incurred by a mentor to provide the developmental assistance described in 1819.7214 are allowable. Except for cost-plus-award-fee contracts, such proposed costs shall not be included in the cost base used to develop a fee objective or to negotiate fee. On contracts with an award fee incentive, a contractor's Mentor-Protégé efforts shall be evaluated under the award fee evaluations.

1819.7206 Incentives for prime contractor participation.

(a) Proposed mentor-protégé efforts, except for the extent of participation of protégés as subcontractors, shall be evaluated under the Mission Suitability factor. The participation of SDB protégés as subcontractors shall be evaluated separately as a Mission Suitability subfactor (see FAR 15.304(c)(4) and 19.1202). The participation of other categories of protégés as

subcontractors may be evaluated separately as part of the evaluation of proposed subcontracted efforts.

(b) Under contracts with award fee incentives, approved mentor firms shall be eligible to earn award fee associated with their performance as a mentor by performance evaluation period. For purposes of earning award fee, the mentor firm's performance shall be evaluated against the criteria described in the clause at 1852.219-79, Mentor Requirements and Evaluation. This award fee evaluation shall not include assessment of the contractor's achievement of FAR 52.219-9 subcontracting plan SDB goals or proposed monetary targets for SDB subcontracting (see FAR 19.1203).

1819.7207 Measurement of Program success.

The overall success of the NASA Mentor-Protégé Program encompassing all participating mentors and protégés will be measured by the extent to which it results in:

(a) An increase in the number, dollar value and percentage of subcontracts awarded to protégés by mentor firms under NASA contracts since the date of entry into the Program;

(b) An increase in the number and dollar value of contract and subcontract awards to protégé firms since the time of their entry into the Program (under NASA contracts, contracts awarded by other Federal agencies and under commercial contracts);

(c) An increase in the number and dollar value of subcontracts awarded to a protégé firm by its mentor firm; and

(d) An increase in subcontracting with protégé firms in industry categories where they have not traditionally participated within the mentor firm's activity.

1819.7208 Mentor firms.

(a) *Eligibility:*

(1) Contractors eligible for receipt of government contracts;

(2) Large prime contractors performing under contracts with at least one negotiated subcontracting plan as required by FAR 19.7; and

(3) Small business prime contractors that can provide developmental assistance to enhance the capabilities of protégés to perform as subcontractors and suppliers.

(b) Mentors will be encouraged to identify and select as protégés:

(1) A broad base of firms including those defined as emerging firms (e.g., a protégé whose size is no greater than 50 percent of the size standard applicable to the NAICS code assigned to a contracting opportunity);

(2) Firms in addition to those with whom they have established business relationships; and

(3) High-tech firms.

1819.7209 Protégé firms.

(a) For selection as a protégé, a firm must be:

(1) An SDB in the NAICS Major Groups as determined by the Department of Commerce (see FAR 19.201(b)), HBCU, MI, or WOSB;

(2) Certified as small in the NAICS code for the services or supplies to be provided by the protégé under its subcontract to the mentor; and

(3) Eligible for receipt of government contracts.

(b) Except for SDBs, a protégé firm may self-certify to a mentor firm that it meets the requirements set forth in paragraph (a) of this section. Mentors may rely in good faith on written representations by potential protégés that they meet the specified eligibility requirements. SDB status eligibility and documentation requirements are determined according to FAR 19.304.

(c) Protégés may have multiple mentors. Protégés participating in mentor-protégé programs in addition to the NASA Program should maintain a system for preparing separate reports of mentoring activity for each agency's program.

1819.7210 Selection of protégé firms.

(a) Mentor firms will be solely responsible for selecting protégé firms. The mentor is encouraged to identify and select the types of protégé firms listed in 1819.7208(b).

(b) Mentor firms may have more than one protégé.

(c) The selection of protégé firms by mentor firms may not be protested, except for a protest regarding the size or eligibility status of an entity selected by a mentor to be a protégé. Such protests shall be handled in accordance with FAR 19.703(b). The contracting officer shall notify the Headquarters Office of Small and Disadvantaged Business Utilization (OSDBU) (Code K) of the protest.

1819.7211 Application process for mentor firms to participate in the Program.

(a) Prime contractors interested in becoming a mentor firm must submit a request to the NASA OSDBU to be approved under the Program. The application will be evaluated on the extent to which the company plans to provide developmental assistance. The information required in paragraph (b) of this section must be submitted to be considered for approval as a mentor firm.

(b) A proposed mentor must submit the following information to the NASA OSDBU:

(1) A statement that the mentor firm is currently performing under at least one active approved subcontracting plan (small business exempted) and that they are eligible, as of the date of application, for the award of Federal contracts;

(2) The cognizant NASA contract number(s), type of contract, period of performance (including options), title of technical program effort, name of NASA Program Manager (including contact information) and name of the NASA field center where support is provided;

(3) The number of proposed mentor-protégé arrangements;

(4) Data on all current NASA contracts and subcontracts to include the contract/subcontract number(s), period of performance, awarding NASA installation or contractor and contract/subcontract value(s) including options;

(5) Data on total number and dollar value of subcontracts awarded under NASA prime contracts within the past 2 years and the number and dollar value of such subcontracts awarded to entities defined as protégés.

(6) Information on the proposed types of developmental assistance. For each proposed mentor-protégé relationship include information on the company's ability to provide developmental assistance to the identified protégé firm and how that assistance will potentially increase subcontracting opportunities for the protégé firm, including subcontracting opportunities in industry categories where these entities are not dominant in the company's current subcontractor base; and

(7) A Letter of Intent signed by both parties. At a minimum, the Letter of Intent must include the stated commitment that the parties intend to enter into a mentor-protégé agreement under the NASA Program, that they intend to cooperate in the establishment of a suitable developmental assistance program to meet their respective needs, and that they agree to comply with the obligations in 1819.7215 and all other provisions governing the Program.

1819.7212 OSDBU review and approval process of agreement.

(a) The information specified in 1819.7211(b) is reviewed by the NASA OSDBU. This review will be completed no later than 30 days after receipt by the OSDBU. The OSDBU will provide a copy of the submitted information to the cognizant NASA technical program manager and contracting officer for a parallel review and concurrence.

- (b) If OSDBU approves the application, then the mentor --
 - (1) Negotiates an agreement with the protégé; and
 - (2) Submits an original and two (2) copies of the agreement to the OSDBU for approval by the NASA Mentor-Protégé program manager, the NASA technical program manager, and the contracting officer.
- (c) Upon agreement approval, the mentor may implement a developmental assistance program.
- (d) An approved agreement will be incorporated into the mentor's contract with NASA. It should be added to the subcontracting plan in contracts which contain such a plan.
- (e) If OSDBU disapproves the application, then the mentor may provide additional information for reconsideration. The review of any supplemental material will be completed within 30 days after receipt by the OSDBU. Upon finding deficiencies that NASA considers correctable, the OSDBU will notify the mentor and request information to be provided within 30 days that may correct the deficiencies.

1819.7213 Agreement contents.

The contents of the agreement must contain:

- (a) Names and addresses of mentor and protégé firms and a point of contact within both firms who will oversee the agreement;
- (b) Procedures for the mentor firm to notify the protégé firm, OSDBU, and the contracting officer, in writing, at least 30 days in advance of the mentor firm's intent to voluntarily withdraw from the Program;
- (c) Procedures for a protégé firm to notify the mentor firm in writing at least 30 days in advance of the protégé firm's intent to voluntarily terminate the mentor-protégé agreement. The mentor shall notify the OSDBU and the contracting officer immediately upon receipt of such notice from the protégé;
- (d) A description of the type of developmental program that will be provided by the mentor firm to the protégé firm, to include a description of the subcontract work, and a schedule for providing assistance and criteria for evaluation of the protégé's developmental success;
- (e) A listing of the number and types of subcontracts to be awarded to the protégé firm;
- (f) Program participation term;
- (g) Termination procedures;
- (h) Plan for accomplishing work should the agreement be terminated; and
- (i) Other terms and conditions, as appropriate.

1819.7214 Developmental assistance.

The forms of developmental assistance a mentor can provide to a protégé include:

- (a) Management guidance relating to --
 - (1) Financial management,
 - (2) Organizational management,
 - (3) Overall business management/planning, and
 - (4) Business development;
- (b) Engineering and other technical assistance;
- (c) Noncompetitive award of subcontracts under NASA contracts;
- (d) Progress payments based on costs. The customary progress payment rate for all NASA contracts with small disadvantaged businesses is 95 percent. This customary progress payment rate for small disadvantaged businesses may be used by prime contractors;
- (e) Advance payments. While a mentor can make advance payments to its protégés who are performing as subcontractors, the mentor will only be reimbursed by NASA for these costs if advance payments have been authorized in accordance with 1832.409-170;
- (f) Loans;

- (g) Rent-free use of facilities and/or equipment; and
- (h) Temporary assignment of personnel to the protégé for purpose of training.

1819.7215 Obligation.

- (a) The mentor or protégé may voluntarily withdraw from the Program as mutually agreed by both mentor and protégé.
- (b) Mentor and protégé firms will submit a "lessons learned" evaluation to the NASA OSDBU at the conclusion of each NASA contract subject to the approved Mentor-Protégé agreement.

1819.7216 Internal controls.

(a) The NASA OSDBU will manage the Program. Internal controls will be established by the OSDBU to achieve the stated program objectives (by serving as checks and balances against undesired actions or consequences) such as:

- (1) Reviewing and evaluating mentor applications for realism, validity and accuracy of provided information;
- (2) Reviewing any semi-annual progress reports submitted by mentors and protégés on protégé development to measure protégé progress against the master plan contained in the approved agreement.
- (3) Site visits to NASA installation where mentor-protégé activity is occurring.

(b) NASA may terminate mentor-protégé agreements for good cause and exclude mentor or protégé firms from participating in the NASA program. These actions shall be approved by the NASA OSDBU. NASA shall terminate an agreement by delivering to the contractor a Notice specifying the reason for termination and the effective date. Termination of an agreement does not constitute a termination of the subcontract between the mentor and the protégé. A plan for accomplishing the subcontract effort should the agreement be terminated shall be submitted with the agreement as required in NFS 1819.7213(h).

1819.7217 Reports.

(a) Semi-annual reports shall be submitted by the mentor to the NASA Mentor-Protégé program manager, the NASA OSDBU, to include information as outlined in 1852.219-79(b).

(b) Protégés are encouraged to submit semi-annual reports to the OSDBU on Program progress pertaining to their mentor-protégé agreement. However, costs associated with the preparation of these reports are unallowable costs under Government contracts and will not be reimbursed by the Government.

(c) The NASA technical program manager shall include an assessment of the prime contractor's (mentor's) performance in the Mentor-Protégé Program in a quarterly 'Strengths and Weaknesses' evaluation report. A copy of this assessment will be provided to the OSDBU and the contracting officer.

(d) The NASA Mentor-Protégé program manager will submit semi-annual reports to the cognizant contracting officer regarding the participating prime contractor's performance in the Program for use in the award fee determination process.

1819.7218 Program review.

At the conclusion of each year in the Mentor-Protégé Program, the prime contractor and protégé, as appropriate, will formally brief the NASA OSDBU, the technical program manager, and the contracting officer regarding Program accomplishments pertaining to the approved agreement. This review will be incorporated into the normal program review, where applicable. A separate review will be scheduled for other contracts to be held at the NASA work site location.

1819.7219 Solicitation provision and contract clauses.

(a) The contracting officer shall insert the clause at 1852.219-77, NASA Mentor-Protégé Program, in:

(1) Cost reimbursement solicitations and contracts, or solicitations and contracts with award fee incentives, that include the clause at FAR 52.219-9, Small Business Subcontracting Plan;

(2) Small business set-asides of the contract types in (a)(1) of this section with values exceeding \$550,000 (\$1,000,000 for construction) that offer subcontracting opportunities.

(b) The contracting officer shall insert the clause at 1852.219-79, Mentor Requirements and Evaluation, in contracts where the prime contractor is a participant in the NASA Mentor-Protégé Program.

Subpart 1819.73--Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Programs

1819.7301 Scope of subpart.

The Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Programs were established and issued under the authority of the Small Business Act codified at 15 U.S.C. 631, as amended, and the Small Business Innovation Development Act of 1982 (Pub.L. 97-219), codified with amendments at 15 USC 638. The Small Business Act requires that the Small Business Administration (SBA) issue SBIR and STTR Program Policy Directives for the general conduct of the SBIR/STTR Programs within the Federal Government. The statutory purpose of the SBIR Program is to strengthen the role of innovative small business concerns (SBCs) in federally-funded research or research and development (R/R&D). Specific program purposes are to: stimulate technological innovation; use small business to meet Federal R/R&D needs; foster and encourage participation by socially and economically disadvantaged SBCs, and by SBCs that are 51 percent owned and controlled by women, in technological innovation; and increase private sector commercialization of innovations derived from Federal R/R&D, thereby increasing competition, productivity and economic growth. Federal agencies participating in the SBIR/STTR Programs (SBIR/STTR agencies) are obligated to follow the guidance provided by the SBA Policy Directive. NASA is required to ensure its policies, regulations, and guidance on the SBIR/STTR Programs are consistent with SBA's Policy Directive. Contracting officers are required to insert the applicable clauses identified in 1819.7302 in all SBIR and STTR contracts.

1819.7302 NASA contract clauses.

(a) Contracting officers shall insert the clause at 1852.219-80, Limitation on Subcontracting – SBIR Phase I Program, in all Phase I contracts awarded under the Small Business Innovation Research (SBIR) Program established pursuant to Pub.L. 97-219 (the Small Business Innovation Development Act of 1982).

(b) Contracting officers shall insert the clause at 1852.219-81, Limitation on Subcontracting – SBIR Phase II Program, in all Phase II contracts awarded under the Small Business Innovation Research (SBIR) Program established pursuant to Pub.L. 97-219 (the Small Business Innovation Development Act of 1982).

(c) Contracting officers shall insert the clause at 1852.219-82, Limitation on Subcontracting – STTR Program, in all contracts awarded under the Small Business Technology Transfer (STTR) Program established pursuant to Pub.L. 97-219 (the Small Business Innovation Development Act of 1982).

(d) Contracting officers shall insert the clause at 1852.219-83, Limitation of the Principal Investigator – SBIR Program, in all contracts awarded under the Small Business Innovation Research (SBIR) Program established pursuant to Pub.L. 97-219 (the Small Business Innovation Development Act of 1982).

(e) Contracting officers shall insert the clause at 1852.219-84, Limitation of the Principal Investigator – STTR Program, in all contracts awarded under the Small Business Technology Transfer (STTR) Program established pursuant to Pub.L. 97-219 (the Small Business Innovation Development Act of 1982).

(f) Contracting officers shall insert the clause at 1852.219-85, Conditions for Final Payment - SBIR and STTR Contracts, in all contracts awarded under the Small Business Technology Transfer (STTR) Program and in all Phase I and Phase II contracts awarded under the Small Business Technology Transfer (STTR) Small Business Innovation Research (SBIR) Program established pursuant to Pub.L. 97-219 (the Small Business Innovation Development Act of 1982).